Customs Bulletin

Regulations, Rulings, Decisions, and Notices concerning Customs and related matters

and Decisions

of the United States Court of Customs and Patent Appeals and the United States Customs Court

Vol. 14 MAY 7, 1980 No. 19

This issue contains

THE DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

Treasury Decisions

(T.D. 80–105)

Bonds

Approval of a carrier's bond, Customs form 3587

A bond of a carrier for the transportation of bonded merchandise has been approved as shown below. The approval of the bond is temporary until July 24, 1980.

Dated: April 17, 1980.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Russ's Motor Service, Inc., 5070 Lake St., Melrose Park, Il; motor carrier; International Fidelity Insurance Co.	Feb. 27, 1980	Mar. 25, 1980	Chicago, Il; $25,000

BON–3–03

ALFRED G. SCHOLLE,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 80–106)

Cotton Textile Products-Restriction on Entry

Restriction on entry of cotton textile products manufactured or produced in Pakistan

There is published below a directive of March 5, 1980, received by the Commissioner of Customs from the chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton textile products in category 320 manufactured or produced in Pakistan. This directive amends, but does not cancel, that committee's directive of December 20, 1979 (T.D. 80–60).

This directive was published in the Federal Register on March 10, 1980 (45 F.R. 15249), by the committee.

(QUO-2-1)

Dated: April 18, 1980.

WILLIAM D. SLYNE
(For Chester R. Krayton,
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INTERNATIONAL TRADE ADMINISTRATION,
Washington, D.C., March 5, 1980.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on December 20, 1979, by the chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textile products, produced or manufactured in Pakistan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 4, 1978, as amended, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 5, 1977, you are directed to prohibit, effective on March 10, 1980, and for the 12-month period beginning on January 1, 1980, and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in category 320, produced or manufactured in Pakistan, in excess of 10 million square yards.[1]

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions to the United States. Therefore, the directions to the Commissioner of Customs, which are

[1] The level of restraint has not been adjusted to reflect any imports after Dec. 31, 1979.

necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
Chairman, Committee for the Implementation of Textile Agreements.

(T.D. 80–107)

Wool and Manmade Fiber Apparel Products-Restriction on Entry

Restriction on entry of wool and manmade fiber apparel products manufactured or produced in Yugoslavia

There is published below a directive of February 27, 1980, received by the Commissioner of Customs from the chairman, Committee for the Implementation of Textile Agreements, concerning the cancellation of import controls on products in categories 443 and 643 manufactured or produced in Yugoslavia. This directive cancels and supersedes that committee's directive of December 19, 1979 (T.D. 80–48).

This directive was published in the Federal Register on March 3, 1980 (45 F.R. 13792), by the committee.

(QUO–2–1)

Dated: April 18, 1980.

WILLIAM D. SLYNE
(For Chester R. Krayton,
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INTERNATIONAL TRADE ADMINISTRATION,
Washington, D.C., February 27, 1980.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive cancels and supersedes the directive of December 19, 1979, from the chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit, effective on January 1, 1980, and for the 12-month period extending through December 31, 1980, entry into the United

States for consumption and withdrawal from warehouse for consumption of wool and manmade fiber textile products in categories 443 and 643, produced or manufactured in Yugoslavia, in excess of the designated level of restraint, effective on March 3, 1980.

The action taken with respect to the Government of the Socialist Federal Republic of Yugoslavia and with respect to imports of wool and manmade fiber textile products from Yugoslavia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
Chairman, Committee for the
Implementation of Textile Agreements.

(T.D. 80–108)

Cotton Textile Products-Restriction on Entry

Restriction on entry of cotton textile products manufactured or produced in the Philippines

There is published below a directive of March 28, 1980, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton textile products in category 331 manufactured or produced in the Philippines. This directive amends, but does not cancel, that committee's directive of December 19, 1979 (T.D. 80–51).

This directive was published in the Federal Register on April 2, 1980 (45 F.R. 21673), by the committee.

(QUO–2–1)

Dated: April 18, 1980.

WILLIAM D. SLYNE
(For Chester R. Krayton,
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INTERNATIONAL TRADE ADMINISTRATION,
Washington, D.C. March 28, 1980.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on December 19, 1979, by the chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and manmade fiber textile products, produced or manufactured in the Philippines.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on April 3, 1980, and for the 12-month period beginning on January 1, 1980, and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in category 331, produced or manufactured in the Philippines, in excess of the following level of restraint:

Category	*12-month Level of restraint* [1]
331	585,015 dozen pairs

Cotton textile products in category 331 which have been exported to the United States prior to January 1, 1980, shall not be subject to this directive.

Cotton textile products in category 331 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of TSUSA numbers was published in the Federal Register on February 28,1980 (45 F.R. 13172).

[1] The level of restraint has not been adjusted to reflect any imports after Dec. 31, 1979. Imports during January 1980 amounted to 266 dozen pairs.

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton textile products from the Philippines has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

(T.D. 80–109)

Cotton Textile Products-Restriction on Entry

Restriction on entry of cotton textile products manufactured or produced in the Dominican Republic

There is published below a directive of March 3, 1980, received by the Commissioner of Customs from the chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton textile products in category 340 manufactured or produced in the Dominican Republic. This directive amends, but does not cancel, that committee's directive of November 28, 1979 (T.D. 80–32).

This directive was published in the Federal Register on March 5, 1980 (45 F.R. 14616), by the committee.

(QUO–2–1)

Dated: April 18, 1980.

WILLIAM D. SLYNE
(For Chester R. Krayton,
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INTERNATIONAL TRADE ADMINISTRATION,
Washington, D.C., March 3, 1980.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: On November 28, 1979, the chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the 12-month period beginning on June 1, 1979, and extending through May 31, 1980, of cotton and manmade fiber textile products in certain specified categories, produced or manufactured in the Dominican Republic, in excess of designated levels of restraint. The chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 7 and 8, 1979, between the Governments of the United States and the Dominican Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on March 3, 1980, to increase the 12-month level of restraint for category 340 to 130,723 dozen.[2]

The action taken with respect to the Government of the Dominican Republic and with respect to imports of cotton textile products from the Dominican Republic have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
Chairman, Committee for the
Implementation of Textile Agreements.

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 7 and 8, 1979, between the Governments of the United States and the Dominican Republic which provide, in part, that: (1) Specific levels of restraint may be exceeded by designated percentages to account for swing; (2) these levels may also be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any imports after May 31, 1979.

Decisions of the United States Court of Customs and Patent Appeals

(C.A.D. 1243)

UNITED STATES, APPELLANT *v.* TEXAS INSTRUMENTS INC., APPELLEE

No. 79–32

1. CLASSIFICATION OF IMPORTS—VISIBLE LIGHT EMITTING DIODE (VLED) DISPLAY DEVICES TSUS ITEM 685.70

Customs Court decision that visible light emitting diode displays used in solid state watches are properly classified under TSUS item 685.70 as electrical indicator panels or electrical visual signalling apparatus rather than as watch dials under TSUS item 720.40 is affirmed.

2. ID.

Classification as watch dials is improper because Subpart E, Headnote 1 requires the watches in which the articles are used contain watch movements.

U.S. Court of Customs and Patent Appeals, April 17, 1980

Appeal from U.S. Customs Court, C.D. 4811 (Appeal No. 79–33), C.D. 4810 Appeal No. 79–32)

[Affirmed.]

Alice Daniel, Assistant Attorney General, *David M. Cohen*, Director, Commercial Litigation Branch, *Sheila N. Ziff*, attorney of record, for appellee, *Frederick L. Ikenson*, Attorney for appellee.

Henry C. Ikenberry and *Gary N. Horlick* (Steptoe and Johnson) attorneys for Tally Industries, Amicus Curiae.

James F. Davis, John F. Bruce and *Frederick H. Graefe* (Howrey & Simon) attorneys for Timex Corporation, Amicus Curiae.

Ive Arlington Swan, Attorney General of the Virgin Islands and *William L. Blum*, Legal Counsel to the Virgin Islands, Dept. of Commerce attorneys for Government of the Virgin Islands, Amicus Curiae.

Eugene A. Ludwig (Covington & Burling) attorney of record for American Watch Association, Amicus Curiae.

Louis Schneider and *Herbert Peter Larsen* (Freeman, Meade, Wasserman and Schneider) attorneys for General Electric Co., Amicus Curiae.

Before MARKEY, *Chief Judge*, RICH, BALDWIN, and MILLER, *Associate Judges*, and FORD,[1] *Judge*.

MARKEY, Chief Judge.

[1] The Government appeals from the judgment of the Customs Court, *Texas Instruments, Inc.* v. *United States*, 82 Cust. Ct. 287, C.D. 4811, 475 F. Supp. 1193 (1979), sustaining Texas Instruments' classification protest relating to imported visible light emitting diode (VLED) display devices used as components in solid-state digital watches. Judge Nils A. Boe held classification under item 685.70,[2] "electrical indicator panels or electrical visual signaling apparatus," to be proper. We affirm.

BACKGROUND

The imported articles, entered from Taiwan in June 1976, are VLED display devices used in solid-state electronic watches to display time in digital form. The Customs Service classified them as "watch dials" under TSUS item 720.40.[3]

The Customs Court held: (1) The articles cannot be classified as watch dials because the watches in which they are used do not contain a watch or clock movement, as required by schedule 7, part 2, subpart E, headnote 1; (2) that the articles are used in watches does not dictate that this VLED display be classified differently from all other VLED displays, the latter being classified under item 685.70.[4]

OPINION

[2] We agree with the Customs Court that classification under item 720.40 is improper because the watches in which the articles are used do not contain a watch or clock movement as required by subpart E, headnote 1, and that use of the imported article with watches did not require classification different from other VLED displays.

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[1] The Honorable Morgan Ford, Judge, U.S. Customs Court, sitting by designation.

[2] Item 685.70 Bells, sirens, indicator panels, burglar and fire alarms, and other sound or visual signaling apparatus, all the foregoing which are electrical, and parts thereof. 4% ad val.

* * * * * * *

[3] Schedule 7, part 2, subpart E subpart E headnotes:

1. This subpart covers watches and clocks, time switches and other timing apparatus with clock of watch movements, and parts of these articles.

* * * * * * *

	Dials and parts thereof:	
	Watch and clock dials:	
720.40	Under 1.77 inches in width	1.2¢ each + 22.5% ad val.

[4] The Customs Court also expressed the view that the basic identifying characteristic of a watch or clock dial is the presence of graduations from which the passage of time can be ascertained. We need not and do not so determine.

The parties stipulated that if classification under item 720.40 were improper, the articles should be classified under item 685.70.[5]

The judgment of the Customs Court is affirmed.

(C.A.D. 1244)

THE UNITED STATES APPELLANT, *v.* TEXAS INSTRUMENTS INCORPORATED, APPELLEE

No. 79–33

1. CLASSIFICATION OF IMPORTS—ENCAPSULATED INTEGRATED CIRCUITS—TSUS ITEM 687.60

Customs Court decision that encapsulated integrated circuits used in solid states watches are properly classified as transistors and other related electronic crystal components under TSUS item 687.60 rather than subassemblies for watch movements under TSUS item 720.75 is affirmed.

2. ID.—CONGRESSIONAL INTENT "WATCH MOVEMENTS"

Legislative history showing a congressional intent to classify electronically regulated watch movements with conventional movements does not persuasively show that a solid-state module having no moving parts was intended by Congress to be included included within the provision for watch movements.

3. ID.

"Watch movements" refers to a mechanism incorporating moving parts to which or from which motion is transferred.

4. ID.

The vibration of the quartz crystal in a solid state digital watch module does not require classification of the module as a "watch movement."

5. ID.

An encapsulated integrated circuit used in solid state watches is not classifiable as a "clock mechanism" for the same reasons it is not classifiable as a "watch movement."

U.S. Court of Customs and Patent Appeals, April 17, 1980

Appeal from U.S. Customs Court, C.D. 4811 (Appeal No. 79–33) C.D. 4810 (Appeal No. 79–32)

[Affirmed.]

[5] In *United States* v. *Texas Instruments*, —— CCPA ——, C.A.D. 1244, —— F. 2d —— (1980), decided of even date, this court affirmed the Customs Court decision that integrated circuit devices are not parts of watch or clock movements, because they contain no mechanism for the transfer of motion.

Alice Daniel, Assistant Attorney General, *David M. Cohen*, Director, Commercial Litigation Branch, *Shelia G. Ziff*, attorney of record, for appellant.

Frederick L. Ikenson, Attorney for appellee.

Henry C. Ikenberry and *Gary N. Horlick* (Steptoe and Johnson) attorneys for Tally Industries, Amicus Curiae.

James F. Davis, *John F. Bruce* and *Frederick H. Graefe* (Howrey & Simon) attorneys for Timex Corporation, Amicus Curiae.

Ive Arlington Swan, Attorney General of the Virgin Islands and *William L. Blum*, Legal Counsel to the Virgin Islands Dept. of Commerce attorneys for Government of the Virgin Islands, Amicus Curiae.

Eugene A. Ludwig, (Covington & Burling) attorney of record for American Watch Association, Amicus Curiae.

Louis Schneider and *Herbert Peter Larsen*, (Freeman, Meade, Wasserman and Schneider,) attorneys for General Electric Co., Amicus Curiae.

Before MARKEY, *Chief Judge*, RICH, BALDWIN, and MILLER, *Associate Judges*, and FORD[1], *Judge*, U.S. Customs Court.

MARKEY, Chief Judge.

[1] The Government appeals from the judgment of the Customs Court, *Texas Instruments, Inc.* v. *United States*, 82 Cust. Ct. 272, C.D. 4810, 475 F. Supp. 1183 (1979), sustaining Texas Instruments' classification protest relating to imported integrated circuit devices used as components in solid-state digital watches.[2] We affirm.

BACKGROUND

The imported articles, entered from El Salvador in August 1976, are integrated circuit devices, each of which is affixed to a lead frame and encapsulated in molded plastic material shaped to facilitate addition of other components required to complete a digital watch module, i.e., crystal, capacitor, batteries, and display.

The Customs Service classified the imported articles under TSUS item 720.75[3] as assemblies and subassemblies for watch movements.

[1] The Honorable Morgan Ford, Judge, U.S. Customs Court, sitting by designation.

[2] Briefs amicus curiae were filed by American Watch Association, General Electric Co., Government of the Virgin Islands, Talley Industries, and Timex Corp.

[3] Assemblies and subassemblies for watch movements consisting of 2 or more parts or pieces fastened or joined together:

720.75	Other assemblies and subassemblies	4.5¢ for each jewel (if any)+the column 1 rate specified in item 720.65 for bottom or pillar plates or their equivalent therein . . . but the total duty on the assembly or subassembly shall not . . . be less than 22.5% ad val. . . .

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Texas Instruments claimed classification under TSUS item 687.60.[4] The Government asserted an alternate classification under TSUS item 720.86 [5] as assemblies and subassemblies for clock movements.

Judge Nils A. Boe held: (1) The legislative history of TSUS item 720.75 does not evidence a congressional intent to include every device capable of measuring time within the meaning of "watch movement"; (2) "watch movement" refers to a mechanism possessing moving parts to which or from which motion is transferred; (3) the molecular vibration within the quartz crystal of an electronic watch module does not satisfy that motion requirement; (4) the imported articles do not bear an essential resemblance to watch movements, and are specifically provided for under TSUS item 687.60; (5) the imported articles are not more than integrated circuits; and (6) the imported articles are not classifiable as "clock movements" under TSUS item 720.86, the sole distinction between clock and watch movements being size.

Issue

The dispositive issue is whether the Customs Court erred in holding the articles properly classified under TSUS item 687.60 as transistor and other related electronic crystal components rather than as subassemblies for watch or clock movements.

Opinion

The Government argues the Customs Court erred because: (1) Legislative history shows a congressional intent to include electronic movements within the term "watch movements"; (2) the quartz crystal incorporated into the imported articles after importation provides movement; (3) the imported articles bear an essential resemblance to watch movement subassemblies in existence when the TSUS was enacted; (4) the articles are more than integrated cir-

[4] Electronic tubes (except X-ray tubes): photocells; transistors; and other related electronic crystal components; mounted piezoelectric crystals; all the foregoing and parts thereof:

*	* * * * * *	*
687.60	Other	6% ad val.

[5] Assemblies and subassemblies for clock movements, consisting of 2 or more parts or pieces fastened or joined together:

*	* * * * * *	*
Other assemblies and subassemblies:		
*	* * * * * *	*
720.86	For other movements	16% ad val.+ 6.25¢ for each jewel (if any)+ 0.75¢ for each other piece or part.

cuits; and (5) if the articles are not watch movements, they are clock movements.

(1) Legislative History

[2] The Government cites portions of the Tariff Classification Study and the Congressional Record that indicate a congressional intent that electronically regulated movements be classified with conventional movements. Those citations do not, however, persuasively show that a solid-state module having no moving parts was intended by Congress to be included within the provision for "watch movements." [6] Accordingly, the Customs Court properly determined the meaning of the term "watch movements" by reference to texts and dictionaries in use at the time the TSUS was enacted, the common understanding of the term in the horological industry at that time, and the testimony of experts as to what the term meant when the TSUS was enacted. The conclusion of the Customs Court that the term refers to a mechanism incorporating "moving parts to which or from which motion is transferred," 82 Cust. Ct. at 278, 474 F. Supp. at 1187, has not been shown to be erroneous by the Government. **[3]** We agree with the Customs Court that the term requires a mechanism for the transfer of motion. Indeed, until 1972, every watch sold contained a movement meeting that definition. Electronically regulated watch movements, the subject of much discussion when the TSUS were enacted (and of the legislative history cited by the Government), also have moving parts and thus meet that definition. The Customs Court correctly decided that the articles at issue here, having no mechanism for the transfer of motion, were not "movements" or subassemblies of "movements" within the meaning of that term as it was understood in 1962.

(2) Quartz Crystal Motion

The Government argues that even if motion is required by the definition of watch movement, that requirement is satisfied by the vibration of the quartz crystal later incorporated into the imported articles. We do not accept that contention. **[4]** The magnitude of the motion within the crystal is roughly one angstrom (one ten-billionth of a meter); the motion is essentially molecular vibration; and the motion does not transmit mechanical energy or transfer motion to or from any other part.

[6] Congress rejected an attempt to amend the relevant TSUS items in 1975 and 1976 to include components of solid-state watches under the TSUS provisions for watches. H.R. 10176, 94th Cong., 1st sess. (1975); H.R. 14600, 94th Cong., 2d sess. (1976).

(3) Essential Resemblance

The Government argues that the imported articles bear an essential resemblance to subassemblies for watch movements in existence when the TSUS were enacted and thus should be classified with them. That argument is supported by a functional analysis: because the imported articles and prior subassemblies are used to keep time and meet certain dimensional requirements, they should be classified together.

The required essential resemblance is to those characteristics established by the TSUS as the criteria of classification. *Davies Turner & Co.* v. *United States*, 45 CCPA 39, 41–42, C.A.D. 669 (1957). The criteria established by the TSUS for classification as a watch movement are: (1) A timepiece movement, (2) less than 1.77 inches wide and 0.5 inch thick. Though the dimensional requirements are met by the imported article, it does not bear an essential resemblance to a timepiece movement because the imported article is not and does not contain a movement. We agree with the Customs Court that the articles are more specifically provided for as transistors and other related electronic crystal components.

(4) "More Than" Integrated Circuits

Arguing that the imported articles are more than integrated circuits, the Government says classification in a TSUS item for integrated circuits is improper because: (1) The encapsulation material serves as a housing for other components; (2) the lead frame serves as the device's substrate; and (2) not at all the usable terminals are connected to external leads.

"Only the most general of rules can be ascertained from the previous decisions dealing with the 'more than' doctrine, and it appears that each case must in the first analysis be determined on its own facts." *E. Green & Son (New York), Inc.* v. *United States*, 59 CCPA 31, 34, C.A.D. 1032, 450 F.2d 1396, 1938 (1971). This court will not reverse on questions of fact unless the findings are unsupported by substantial evidence or are clearly contrary to the weight of the evidence. *Pollard Bearings Corp.* v. *United States*, 62 CCPA 61, 64, C.A.D. 1146, 511 F.2d 568, 571 (1975); *United States* v. *F. W. Myers & Co.*, 45 CCPA 48, 52, C.A.D. 671 (1958).

The Customs Court's finding that the articles are not more than integrated circuits is fully supported by the evidence. We agree with the Customs Court that the features the Government points to are subordinate to the articles' use as integrated circuits.

(5) Clock Movement

The Government argues that if the articles are not classifiable as watch movements they are classifiable as "clock movements or mechanisms" under TSUS item 720.86, because schedule 7, part 2, subpart E, headnote 2(c), says for the purpose of subpart E: "The term 'clock movements' means any movement or mechanism, other than 'watch movements' as defined in headnote 2(b), above, intended or suitable for measuring time." That language, says the Government, requires that any timekeeping device not meeting the dimensional and physical requirements of "watch movement" be classified as a "clock movement or mechanism."

That argument turns on the meaning of "mechanism" at the time the TSUS were enacted. That meaning is of a breadth insufficient to encompass a solid-state module having no moving parts. Webster's Third New International Dictionary (1961) defines mechanism as "a piece of machinery: a structure of working parts functioning together to produce an effect," with machine defined as "(a)ny device consisting of two or more * * * parts, which * * * may serve to transmit and modify force and motion * * *." That that meaning has long been accepted is evidenced by Lockwood's Dictionary of Mechanical Engineering Terms (1913), defining mechanism as "an assemblage of parts * * * which embraces the essential principles on which the machine is constructed," and "machine" "an assemblage of parts * * * by which motion and force are transmitted."

[5] The integrated circuit before us is not a subassembly of a mechanism for the same reason it is not a subassembly of a movement: there is simply no physical movement or motion generated in or by the circuit.

SUMMARY

The judgment of the Customs Court, that encapsulated integrated circuits, used in solid state watches, are properly classified as transistors and other related electronic crystal components rather than subassemblies for watch movements, is affirmed.

Decisions of the United States Customs Court

Abstracts
Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, *April 14, 1980.*

The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the Customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to Customs officials in easily locating case and tracing important facts.

ROBERT E. CHASEN,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P80/54	Ford, J. April 7, 1980	Camp Ways, Inc.	77-6-00899	Item 380.84 25¢ per lb. + 27.5%	Item 376.56 16.5%	H. Rosenthal Co. v. U.S. (C.D. 4769, aff'd C.A.D. 1236)	Los Angeles Ponchos of man-made fibers
P80/55	Richardson, J. April 7, 1980	Kombi Ltd.	79-8-01347	Item 734.99 9%	Item A734.99 Free of duty pursuant to GSP by virtue of Ex. Order No. 11888 of 11/24/75	Agreed statement of facts	Newark (New York) Ski gloves, etc.; products of eligible beneficiary country
P80/56	Richardson, J. April 10, 1980	Amico, Inc.	78-8-01527	Item 737.20 17.5%	Item 688.40 5.5%	Agreed statement of facts	Philadelphia "Sexy Doll Radios"; human figurine incorporating a radio as an integral part
P80/57	Watson, J. April 10, 1980	S. S. Kresge Co.	77-12-04952	Item 389.60 or 389.62 25¢ per lb. plus 15%	Item 735.20 10%	The Newman Importing Co., Inc. v. U.S. (C.D. 4648)	Longview (Portland, Oreg.) Tents

Decisions of the United States Customs Court

Abstracts

Abstracted Reappraisement Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R80/102	Richardson, J. April 7, 1980	Conti Rubber Products Inc.	76-12-02781, etc.	Foreign value	DM88.176, DM52.866, DM65.406, DM63.492, DM64.35	Agreed statement of facts	Los Angeles Various automotive tires
R80/103	Richardson, J. April 7, 1980	Gehrig, Hoban & Co., Inc.	R68/14826	United States value	Determined by adding to f.o.b. unit invoice price in Swiss francs converted to a dollar value at the rate of exchange in effect at time of entry (the "claimed value"), 53% of difference between claimed value and appraised value	Agreed statement of facts	New York Machine tools and accessories and parts thereof
R80/104	Boe, J. April 7, 1980	J. E. Bernard & Company, Inc.	R68/2607	Export value	Invoice value of SFR 45,000, plus US $30,-000 for license fee, net, packed	Agreed statement of facts	Chicago "One Special Camera (camera with two stands complete)"

R80/105	Richardson, J. April 10, 1980	Conti Rubber Products Inc.	76-5-01134, etc.	Foreign value	DM35.046; DM56.628; DM38.478; DM64.614; DM37.488; DM41.184	Agreed statement of facts	Boston Automotive tires
R80/106	Richardson, J. April 10, 1980	Frank P. Dow Co., Inc.	R69/1707, etc.	United States value	Determined by adding to f.o.b. unit invoice price in Swiss francs converted to a dollar value at rate of exchange in effect at time of entry (the "claimed value"), 53% of difference between claimed value and appraised value	Agreed statement of facts	San Francisco Machine tools and accessories and parts thereof

Appeals to U.S. Court of Customs and Patent Appeals

APPEAL 80–25.—Majestic Electronics, Inc. *v.* United States.—WIGS AND OTHER HAIR PRODUCTS—EXPORT VALUE—APPEALS FOR REAPPRAISEMENT DISMISSED. Appeal from C.D. 4839.

In this case merchandise consisting of wigs and other products of human hair was, based on the price of "such or similar" merchandise, appraised on the basis of export value as defined in section 402(b) of the Tariff Act of 1930, as amended by the Customs Simplification Act of 1956 (19 U.S.C. 1401a(b)), at unit values higher than the invoice unit values, as entered. Plaintiff-appellant contended that the invoice unit values, as entered, represent the proper dutiable values.

Plaintiff claimed, alternatively, that if it was found to be a selected purchaser within the meaning of section 402(f), Tariff Act of 1930, as amended, the invoice unit values, as entered, represent the prices which fairly reflect the market value of the merchandise. Plaintiff was not found to be a selected purchaser.

The Customs Court determined that plaintiff had failed to overcome the presumption of correctness attaching to the appariser's findings of value as to certain of the merchandise (i.e., the first order of Italwigs, all orders of B/Italwigs, hand tied and machine made, and the Christina 500). The appraiser's findings of value to those items of merchandise were, therefore, affirmed. The Customs Court found that plaintiff had overcome the presumption of correctness attaching to the appraiser's findings of value as to the remaining merchandise (i.e., the Italwigs after the first order, the Roman wigs, the Wiglet "C", the Monica falls, and the Gioia wigs), but it failed to establish the correctness of its claimed values. Therefore, the appraised values as to those items of merchandise were not affirmed, but remain in effect. The appeals for reappraisement were dismissed.

It is claimed that the Customs Court erred in finding and holding that plaintiff failed to overcome the presumption of correctness attaching to the appraiser's findings of value as to the first order of Italwigs in entry 107666, and as to all orders of the hand-tied B/Italwigs, the machine-made B/Italwigs, and the Christina 500; in finding and hold-

ing that, although plaintiff overcame the presumption of correctness attaching to the appraiser's findings of value as to the Roman wigs, the Wiglet "C", the Monica falls, the Gioia wigs and all Italwigs except those in entry 107666, plaintiff failed to establish that the export value was represented by the invoiced and entered values of said merchandise; in not finding and holding that the export value of all merchandise included in the consolidated appeals was represented by the invoiced and entered values; in finding and holding that export value may not be established by prices negotiated in bona fide arm's-length transactions if the buyer is not a selected purchaser; in not finding and holding that export value may be established by prices negotiated in bona fide arm's-length transactions, regardless of whether the buyer is a selected purchaser; in finding and holding that plaintiff was not a selected purchaser at wholesale within the meaning of section 402(f)(1)(B) of the Tariff Act of 1930, as amended; in not finding and holding that plaintiff, the purchaser of wigs and other hair products made to its own specifications, was in fact a selected purchaser under section 402(f)(1)(B); in not finding and holding whether or not plaintiff was a selected purchaser, the prices negotiated at arm's length should nevertheless be accepted as representing the market value and export value of the imported merchandise; in failing to hold that sales of merchandise made to specification, to anyone other than the selected purchaser who placed the order and supplied the specifications are not in the ordinary course of trade and should be disregarded in determining export value.

APPEAL 80–27.—Norman G. Jensen, Inc., a/c Calhoun's Collectors Society, Inc. *v.* United States—STAFFA STAMPS—ARTICLES OF GOLD—POSTAGE STAMPS—PRINTED MATTER—PRESSURE SENSITIVE FLAT STRIPS OR FORMS—GOLD LEAF, MOUNTED—TSUS. Appeal from C.D. 4846.

In this case the merchandise, thin rectangular strips approximately 1½ inches in width by 2 inches in length backed with an adhesive coating and protected by a release paper, was held properly classified and assessed under item 656.10 of the Tariff Schedules of the United States as articles of gold with duty at the rate of 20 percent ad valorem. The merchandise (Staffa stamps) is produced and sold by private parties and bears the name of the small uninhabited, privately owned island of Staffa located approximately 7.8 nautical miles off the coast of Scotland. Tourists can purchase the Staffa stamps on a ferry trip to the island. A private carrier transports cards or letters bearing the stamps to the mainland where a British postage stamp is affixed.

The letters or cards are then deposited in an official British Post Office for transmission to respective designated destinations.

Plaintiff-appellant claimed that the merchandise was properly free of duty under item 274.40, TSUS, as postage stamps, or, in the alternative, that it was properly classifiable under item 274.70 as printed matter at 4 percent ad valorem, or as printed matter not specially provided for under item 274.90 at 7.5 percent, or as pressure sensitive flat strips or forms under item 790.55 at 10 percent, or as gold leaf, mounted, under item 644.52 at 3.37 cents per 100 square inches plus 12.5 percent.

It is claimed that the Customs Court erred in finding that "plaintiff assumes that the establishment of a specific philatelic meaning of the term 'postage stamps' ipso facto, causes that meaning to be the common meaning thereof" and in failing to find that the philatelic meaning was relevant to the statutory meaning; in not finding that the articles in issue were known to philatelic dealers and those in the philatelic world as postage stamps; in holding by way of limitation, that the first of two prerequisites of the statutory term "postage stamps" is "(1) its issuance or specific authorization by a government * * *"; in not finding, in accordance with the preponderance of evidence, that the private local stamps at bar were within the common understanding of the term "postage stamps"; in failing to find and to hold, in accordance with the evidence, that treatises, catalogs and dictionaries defined "postage stamps" without reference to government issue; in failing to find that defendant's key witness Lutz agreed with plaintiff's testimony that private local stamps were within the trade definition of "postage stamps"; in finding, from a review of The Summaries of Trade and Tariff Information, by the U.S. Tariff Commission, that the term "postage stamps" was limited to stamps "printed by or for a national government"; in holding that "the philatelist may enjoy the gratuity of a tariff exemption only if the stamps imported for philatelic purposes" were printed by or for the use of a national government for postage purposes; in holding, in substance, that plaintiff's witness, L. N. Williams, distinguished private local postage stamps from "postage stamps"; in finding and holding, contrary to the evidence, that recognized authoritative standard postage stamp catalogs do not include private local issues for the reasons that they are not valid as postage stamps; in not finding that some recognized postage stamp catalogs do list private local postage stamps and specifically these Staffa stamps; in holding, in substance, that the opinions of plaintiff's witness Williams that the stamps at issue are "postage stamps" were lacking in credibility because of allegedly inconsistent earlier writings of said witness con-

cerning other stamps, not in issue; in holding, in respect of plaintiff's contention that the articles were "printed matter" that it is not the function of the court to determine the meaning of the term "printing" in the printing trade; in finding that neither a visual examination of the Staffa stamp nor the relevant evidence permits the conclusion that the essential character of the article is imparted by the textual and pictorial matter therein; in finding, contrary to any testimonial evidence, that the essential character of the merchandise is that it is gold having an excellent investment potential; in not finding that the exhibits, as well as the testimonial evidence, established that the essential character of the articles was as printed matter; in not holding that plaintiff's said evidence was uncontradicted and unimpeached; in holding that the merchandise was not printed matter notwithstanding its finding that printed and pictorial matter was embossed thereon; in finding and holding that the surface of the Staffa stamp is not flat within the intendment of part 13, subpart A of schedule 7 and in not finding and holding to the contrary; in not finding and holding that the articles at bar were flat shapes similar to the named exemplaries in said item 790.55; in not finding and holding that the merchandise at bar was gold leaf, mounted, as described in item 644.52; in not rendering judgment sustaining plaintiff's claim for classification as postage stamps under item 274.40, or, in the alternative, for classification as printed matter under item 274.70 at 4 percent ad valorem or in the alternative, as printed matter not specially provided for under item 274.90 at 7.5 percent ad valorem or, in the alternative, as pressure sensitive flat strips or forms under item 790.55 at 10 percent ad valorem or, in the alternative, as gold leaf, mounted under item 644.52 at 3.37 cents per 100 square inches plus 12.5 percent ad valorem; in sustaining the classification of the merchandise as articles of gold under item 656.10.

Recent Unpublished Customs Service Decisions

The following listing of recent administrative decisions issued by the Office of Regulations and Rulings, U.S. Customs Service, and not otherwise published, is published for the information of Customs officers and the importing community. Although the decisions are not of sufficient general interest to warrant publication as Treasury decisions, the listing describes the issues involved and is intended to aid Customs officers and concerned members of the public in identifying matters of interest which recently have been considered by the Office of Regulations and Rulings.

A copy of any decision included in this listing, identified by its date and file number, may be obtained in a form appropriate for public distribution upon written request to the Office of Regulations and Rulings attention: Legal Reference Area, room 2404, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229. These copies will be made available at a cost to the requester of $0.10 per page. However, the Customs Service will waive this charge if the total number of pages copied is 10 or less.

Decisions listed in earlier issues of the CUSTOMS BULLETIN, through December 21, 1979, are available in microfiche format at a cost of $17.70 (15 cents per sheet of fiche). It is anticipated that additions to the microfiche will be made quarterly and subscriptions are available. Requests for the microfiche now available and for subscriptions should be directed to the Legal Reference Area. Subscribers will automatically receive updates as they are issued and will be billed accordingly.

Dated: April 22, 1980.

JOHN T. ROTH,
Acting Director,
Regulations and Research Division.

Date of Decision	File Number	Issue
3-27-80	104505	Vessels: Definition of passengers to be used for computing tonnage tax for vessels
3-20-80	712210	Country-of-origin marking: Surfboards

Date of Decision	File Number	Issue
3–19–80	712404	Country-of-origin marking: Exception: grey iron casting washers
3–21–80	712458	Country-of-origin marking: Sewing machines
3–27–80	712529	Country-of-origin marking: Plastic housings for use in domestic assembly of depth sounders
3–20–80	712612	Entry: Personal effects of military personnel (820.40, 822.20)
3–21–80	712683	Entry: Whether misunderstanding between broker and trucking company as to when the latter should obtain release of merchandise from Customs custody is a mistake of fact under 19 U.S.C. 1520(c)(1)
3–20–80	057121	Classification: Multiple sprocket for bicycle (912.10)
3–26–80	060994	Classification: Flat door jambs of wood with stops attached (202.64, 202.66)
3–24–80	061266	Classification: Cowhide gloves (735.07, 735.35)
3–26–80	061564	American selling price: Women's closed-toe, open-back, acrylic plush scuff with vinyl wedge
3–20–80	061648	Classification: Gumball machines (654.11, 678.50)
3–26–80	061649	Classification: Metal key chains (657.25, 740.38)
3–25–80	061756	Classification: Disguise kits (737.65, 737.95)
3–24–80	061761	Classification: Papermaking machinery parts (661.06, 661.10, 661.67, 661.68)
3–14–80	061845	Classification: Steel tubing (610.52, 664.05)
3–25–80	061889	Classification: Precious metal balls used in fountain pen nibs (656.05, 760.32)
3–28–80	061924	Classification: Modular trailer (692.32, 692.60)
3– 5–80	062667	Classification: Clown pompon figures (737.40)
3–12–80	062781	Classification: Tension knob (772.80)
3–28–80	062837	Classification: Textile finishing and coating machines (664.10, 670.43)
3– 5–80	062871	Classification: Grafting machine (666. 00)
3–12–80	164072	Classification: Folding aluminum ladders (657. 40)
3–25–80	064100	Classification: Whether garments with embroidered trade name are ornamented
3–13–80	064158	Classification: combination electric shaver and hair dryer (683. 50, 684. 50, 678. 50)
2– 8–80	064220	Classification: Friction welder (678. 50, 683. 90)
3–28–80	064311	Classification: Whether a label ornaments a certain garment
3–24–80	064375	Classification: Snowblower (661. 06, 870. 40)
3– 5–80	064392	Classification: Solar energy absorbers (657. 40, 661. 65)
3–20–80	064398	Classification: Shoe chain (652. 24)
3–12–80	064400	Classification: Hot-rolled, rough-turned steel bars (606. - 83, 606. 88)
3–12–80	064401	Classification: head meat and tongues of sheep and calves (106. 80, 106. 85)
3–20–80	064513	Classification: Construction of civil aircraft agreement

International Trade Commission Notices

Investigations by the U.S. International Trade Commission

DEPARTMENT OF THE TREASURY

The appended notices relating to investigations by the U.S. International Trade Commission are published for the information of Customs Officers and others concerned.

R. E. CHASEN,
Commissioner of Customs.

(19 CFR 210.54)

AGENCY: U.S. International Trade Commission.

ACTION: Section 210.54 of the U.S. International Trade Commission's Rules of Practice and Procedure is amended to read as follows:

210.54 Filing of Exceptions to the Recommended Determination and Alternative Findings of Fact and Conclusions of Law.

Except as otherwise authorized by the Commission, the parties shall be allowed 10 days from the date of service of the recommended determination to file exceptions to the recommended determination and alternative findings of fact and conclusions of law with the Commission. All exceptions and alternative findings of fact and conclusions of law shall be concisely supported by references to the record and the law relied upon. The Commission may rule upon motions for extension of time to file exceptions ex parte.

EFFECTIVE DATE: Upon publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: N. Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C., telephone 202–523–0311.

SUPPLEMENTARY INFORMATION: Part 210 of the commission's Rules of Practice and Procedure contains rules for the conduct of investigations of alleged unfair practices in the import trade. The

Commission conducts such investigations pursuant to section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337). Commission Rule 210.54 concerns the filing of (1) exceptions to the presiding officer's recommended determination, and (2) alternative findings of fact and conclusions of law. The Commission is amending rule 210.54 to make clear that motions for extensions of time in which to file exceptions to the recommended determination and alternative findings of fact and conclusions of law will be ruled upon by the Commission. The amended rule also provides that such motions may be ruled upon by the Commission on an ex parte basis.

By order of the Commission:
Issued: April 15, 1980.

KENNETH R. MASON,
Secretary.

In the Matter of CERTAIN HEADBOXES AND PAPERMAKING MACHINE FORMING SECTIONS FOR THE CONTINUOUS PRODUCTION OF PAPER, AND COMPONENTS THEREOF	Investigation No. 337–TA–82

Order No. 1

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: April 11, 1980.

DONALD K. DUVALL,
Chief Administrative Law Judge.

TA–131(b)–4

LIST OF ARTICLES WHICH MAY BE CONSIDERED FOR INTERNATIONAL TRADE NEGOTIATIONS

Notice of Investigation and Hearing

The U.S. Trade Representative (USTR), acting pursuant to the authority delegated to him by the President, Executive Order 11846,

as amended by Executive Order 11947) and in conformity with section 131 of the Trade Act of 1974 (19 U.S.C. 2151), gave notice on April 7, 1980 (45 F.R. 23558), of articles that may be considered for modification or continuance of U.S. duties or for additional duties.

The USTR has requested the Commission to furnish its advice pursuant to section 131 of the Trade Act as to the probable economic effects on producers of like or directly competitive products and on consumers, of increases in the current duty rates for certain listed items.

The list, annotated with the current rates of duty for each listed article and the maximum rates of duty which may be imposed on such articles under authority of section 124 and section 101(c) of the Trade Act is published as an annex to this notice. The current rates of duty shown in rate columns numbered 1 and 2 are the same as the rates in effect as of January 1, 1975.

Investigations

In accordance with the request of the USTR and the provisions of sections 124 and 131 of the Trade Act, the Commission, on April 14, 1980, instituted investigation TA–131(b)–4 for the purposes of obtaining, to the extent practicable, information of the kind described in section 131(d) of the Trade Act for use in connection with the preparation of the advice requested by the USTR.

Hearing

A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10 a.m., e.d.t. on Wednesday, May 14, 1980. All interested persons will be given an opportunity to be present, to produce evidence, and to be heard at the hearing. Requests to appear at the public hearing should be addressed to the Secretary at the Commission's office in Washington, D.C., and should be received not later than noon of the fifth calendar day preceding the hearing.

Written submissions

In lieu of or in addition to appearing at the public hearing, interested persons may submit written statements. Any business information which a submitter desires the Commission to treat as confidential shall be submitted on separate sheets, each clearly marked at the top "Confidential business data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be made available for inspection by interested persons. To be ensured of consideration by the Commission, written statements should be submitted at the

earliest practicable date, but no later than May 19, 1980. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Report

At the completion of this investigation, the Commission will transmit its report to the USTR. The Commission expects to transmit to the USTR by June 16, 1980.

By order of the Commission:

Issued: April 15, 1980.

KENNETH R. MASON,
Secretary.

Attachment.

ANNEX

GSP	TSUS item No. [1]	Article description	Rates of duty— Col. 1	Col. 2	Maximum increase permissible [2]
A	----------	Vegetables, fresh, chilled, or frozen (but not reduced in size nor otherwise prepared or preserved):			
	135.92	Cucumbers, if entered during the period from March 1 to June 30, inclusive, or the period from September 1 to November 30, inclusive in any year.	3¢ per lb.	3¢ per lb.	4.5¢ per lb., or 3¢ per lb. + 20% ad val., whichever is higher.
	135.94	Cucumbers, if entered during the period from July 1 to August 31, inclusive, in any year.	1.5¢ per lb.	3¢ per lb.	4.5¢ per lb., or 1.5¢ per lb. + 20% ad val., whichever is higher.
	136.22	Eggplant, if entered during the period from December 1 in any year to the last day of the following March, inclusive.	1.1¢ per lb.	1.5¢ per lb.	2.25¢ per lb., or 1.1¢ per lb. + 20% ad val., whichever is higher.

[1] Tariff Schedules of the United States. The Tariff Schedules of the United States Annotated (1980) is for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402; it is also available for inspection without charge at any field office of the U.S. Customs Service or the Department of Commerce and at depository libraries.

[2] Sec. 101(c) of the Trade Act of 1974 provides as follows: (c) No proclamation shall be made pursuant to subsection (a)(2) increasing any rate of duty to, or imposing a rate above, the higher of the following: (1) the rate which is 50 percent above the rate set forth in rate column numbered 2 of the Tariff Schedules of the United States as in effect on Jan. 1, 1975, or (2) the rate which is 20 percent ad valorem above the rate existing on Jan. 1, 1975.

Current rates of duty are shown in rate columns numbered 1 and 2. Such rates are also the same as the rates in effect as of Jan. 1, 1975.

In the Matter of CERTAIN SURVEYING DEVICES	Investigation No. 337–TA–68

Notice and Order Concerning Procedure for Commission Determination and Action

Notice is hereby given that—

1. The Commission will hold a hearing beginning at 10 a.m., e.d.t., Wednesday, May 7, 1980, in the Commission Hearing Room, 701 E Street NW., Washington, D.C., for the purposes of (1) hearing oral argument on the recommended determination of the presiding officer concerning whether there is a violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337); and (2) receiving oral presentations with respect to the subject matter of section 210.14(a) of the Commission's Rules of Practice and Procedure (19 CFR 210.14(a)) concerning relief, bonding, and the public interest factors set forth in subsections (d) and (f) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), which factors the Commission is to consider in the event it determines that relief should be granted. The latter proceeding is legislative in character, and therefore the hearing on remedy, bonding, and public interest will not be subject to the requirements of 5 U.S.C. 556, 557. Instead, this phase of the hearing will be conducted in accordance with section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11). These matters are all being heard on the same day in order that this investigation may be completed within the time limits prescribed by the statute and to minimize the burden of this hearing upon the parties.

Parties and agencies wishing to make oral argument with respect to the recommended determination shall be limited in each oral argument to not more than 30 minutes, 10 minutes of which may be reserved for rebuttal by the staff and complainant.

For that part of the hearing devoted to relief, bonding, and the public interest, parties, interested persons, and Government agencies will be limited in their presentations to no more than 15 minutes. Participants will be permitted an additional 5 minutes for closing arguments after all presentations have been concluded. The Commission's investigative staff will be allotted the full-time available to a party.

Requests for appearances at the hearing should be filed, in writing, with the Secretary of the Commission at his office in Washington no later than close of business, Friday, May 2, 1980. Requests should indicate the part of the hearing (i.e., with respect to the recommended determination, relief, bonding, the public interest factors, or any combination thereof) in which the requesting person desires to participate.

2. Written submissions from the parties, other interested persons, Government agencies and departments, governments, or the public with respect to the recommended determination and the subject matter of subsections (a)(1), (a)(2), and (a)(3) of section 210.14 of the Commission's Rules of Practice and Procedure (19 CFR 210.14(a) (1), (2), and (3)) concerning remedy, bonding, and the public interest will be considered if received by the Commission by Wednesday, May 21, 1980.

Notice of the Commission's institution of the investigation was published in the Federal Register of July 5, 1979 (44 F.R. 39315).

By order of the Commission.

Issued: April 17, 1980.

KENNETH R. MASON,
Secretary.

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U.S. Customs Service

Customs Court

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